

No. PD-0365-16 & PD-0366-16

In the Court of Criminal Appeals of Texas

FILED
COURT OF CRIMINAL APPEALS
10/14/2016
ABEL ACOSTA, CLERK

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|----------------------------|---|--|
| MICHAEL JOSEPH BIEN |) | ON APPEAL FROM |
| APPELLANT |) | |
| V. |) | THE DISTRICT COURT |
| THE STATE OF TEXAS |) | |
| APPELLEE |) | 35TH JUDICIAL DISTRICT |

MOTION FOR EXTENSION OF TIME TO FILE BRIEF

NOW COMES the State of Texas, Appellee in the above-entitled and numbered cause, and in support of this its Motion for Extension of Time to File Brief would respectfully show the Court as follows:

I.

Appellant was convicted of Criminal Attempt-Capital Murder, in the 35th District Court of Brown County, Texas, in Cause No. CR22319, styled, The State of Texas vs. Michael Joseph Bien. Appellant was sentenced to Life in the Institutional Division of the Texas Department of Criminal Justice on February 20, 2014.

Appellant was also convicted of Criminal Solicitation to Commit Capital Murder, in the 35th District Court of Brown County, Texas, in Cause No. CR22320, styled, The State of Texas vs. Michael Joseph Bien. Appellant was sentenced to

Life in the Institutional Division of the Texas Department of Criminal Justice on February 21, 2014 in this case as well.

The Eleventh Court of Appeals issued a decision on March 3, 2016 affirming the judgment in CR22320 and reversing the judgment in CR22319. Both Appellant and the State filed petitions for discretionary review. Discretionary review was granted to both parties on September 14, 2014.

The deadline for the State to file its Brief is October 14, 2016. The number of extensions previously requested is: NONE.

II.

The State has been unable to complete its Brief in this case due to time constraints created as a result of: drafting subpoenas, trial preparation, and witness meetings for the week of October 3, 2016; the office's appellate attorney being absent from the office September 20th through the 23rd, 2016 to attend the TDCAA Criminal Law Update Conference; contested two day bench trial in first degree injury to a child case (State v. Dedra Crider, Cause Number CR23427) involving several expert witnesses on September 26th and 27th, 2016; oral argument in front of the Eleventh Court of Appeals (State v. Charles Burt, Cause Number 11-15-00125-CR) on September 29, 2016; court appearance for docket call in the 35th District Court on September 30, 2016; filing a brief requesting an Open Records

Ruling from the Attorney General's Office on October 3, 2016; writing and filing an appellate brief (State v. Shanna Hughitt, Cause Numbers 11-15-00278-CR & 11-15-00277-CR) filed on October 6, 2016; writing and filing Petition for Discretionary Review (State v. Lanny Bush, Cause Number PD-1012-16) filed on October 6, 2016; numerous witness meetings, other preparation and court appearance for contested Motion to Revoke, Motion to Adjudicate and Motion to Suppress docket on October 11, 2016; drafting subpoenas and trial preparation for the week of October 31, 2016 (filing deadline October 11, 2016); meetings with child abuse Multi-disciplinary team, law enforcement administrators, and software providers; and personal day for out of town doctor's appointment on October 14, 2016.

The State therefore requests an additional thirty (30) days for the preparation of its Brief. The request is made not for the purpose of delay but that justice may be done.

Respectfully submitted,

/S/ElishaBird

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CERTIFICATE OF SERVICE

The undersigned certifies that on the 13th day of October, 2016, a true and correct copy of the foregoing Motion was delivered by fax to the office of Keith S. Hampton & Cynthia L. Hampton, Attorneys at Law, 1103 Nueces Street, Austin, Texas 78701.

/S/ElishaBird

ELISHA BIRD

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing brief was emailed to John Messinger, Assistant State Prosecuting Attorney, at John.Messinger@SPA.texas.gov, on the 13th day of October, 2016.

/S/ElishaBird

ELISHA BIRD

CERTIFICATE OF COMPLIANCE

This document complies with the typeface requirements of Tex. R. App. P. 9.4(e) because it has been prepared in a conventional typeface no smaller than 14-point for text and 12-point for footnotes. This document also complies with the word-count limitations of Tex. R. App. P. 9.4(i), if applicable, because it contains 700 words.

/S/ElishaBird
ELISHA BIRD